

EXHIBIT I
LETTER FROM ECOLOGY TO CITY OF EVERETT



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

May 18, 2004

Mr. Larry Crawford
Assistant Mayor
City of Everett
2930 Wetmore
Everett, WA 98201

**Re: City of Everett role in supporting the Everett Housing Authority's
purchase and cleanup of properties at the Everett Smelter Site**

Dear Mr. Crawford:

The City of Everett (City) has asked the Department of Ecology (Ecology) to address a number of concerns related to the City's expected role in supporting the Everett Housing Authority's (EHA's) purchase and cleanup of properties at the Everett Smelter Site. This letter is intended to address those concerns.

As the City is aware, EHA is currently negotiating a purchase agreement with Asarco, Inc. (Asarco) to purchase properties at two separate portions of the Everett Smelter Site - the "Fenced Area" and the "Asarco Houses" area. EHA has approached Ecology prior to purchasing these properties, in order to settle in advance the liability under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, which EHA would otherwise acquire upon purchase. Ecology and EHA have negotiated two separate Prospective Purchaser Consent Decrees (PPCDs or decrees) in order to settle in advance EHA's liability. Both PPCDs are currently undergoing public comment. Assuming there will be no need to substantively revise the decrees as a result of either the public comment period ending on May 21 or any continued negotiations with EHA, it is expected these decrees can be signed and entered in Snohomish County Superior Court by June 1, 2004.

Under the terms of the PPCDs, EHA is assuming responsibility for cleanup of the Asarco Houses area of the Site, and also for completing cleanup of the Fenced Area portion of the Site following Asarco's removal of soils with arsenic concentrations in excess of 3000 parts per million, in accordance with the Integrated Final Cleanup Action Plan (1999), as amended (2002) (FCAP), Interim Action Report and Final Design Report. EHA's cleanup of the Fenced Area and Asarco Houses area will enable residential development to occur at these portions of the Site.

Ecology understands the City's role in supporting EHA's property purchases, subsequent remedial work and redevelopment to be as follows:

- (1) In accordance with the terms of agreement approved by the City Council on May 12, 2004 and attached to this letter, the City will act as guarantor of a Line of Credit Loan that will be provided to EHA by a financial institution;

Mr. Larry Crawford
May 18, 2004
Page 2

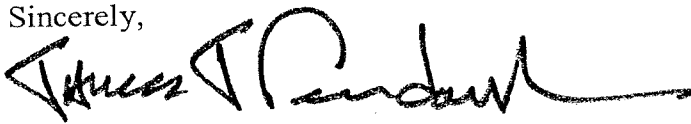
(2) The City will designate EHA as a community renewal agency and authorize EHA to exercise powers pursuant to the Community Renewal Law (RCW 35.81);

(3) The City will legally abandon rights of way and utilities in the Fenced Area and/or Asarco Houses, as necessary to allow EHA to proceed with work authorized under the decrees and Asarco to proceed with work ordered by Ecology under enforcement orders issued to Asarco.

Ecology does not consider the City to be acquiring liability under MTCA for its role in supporting EHA's purchase and cleanup of these properties, as outlined above.

We hope this response adequately addresses the City's concerns. Please feel free to call me at (360) 407-7177 for further discussion.

Sincerely,



James J. Pendowski, Program Manager
Toxics Cleanup Program

Enclosure

cc: Mayor Ray Stephanson, City of Everett
Jim Iles and Mark Soine, City Attorney's Office
Kenneth S. Weiner, Preston Gates & Ellis LLP
Elliott Furst, Senior Counsel
Kristie Carevich, Assistant Attorney General
Steve Thiele, Assistant Attorney General
Dave South, Northwest Regional Office, Ecology

EVERETT SMELTER SITE EHA/CITY OF EVERETT DEAL POINTS

- 1) Land Use. The City of Everett will at EHA's expense process as expeditiously as possible but within existing procedures and limitations, including consistency with the Integrated Cleanup Plan (FCAP/FEIS as amended), Final Design Report for the Everett Smelter Site, and land use codes, any land use, demolition, or construction permit, application or request (prepared by and at expense of EHA) including but not limited to:
 - a) Rezoning the existing R-2 zone (Fenced and Adjacent Area) to R-1A.
 - b) Subdivision and associated vacation of public rights-of-way (at no cost to EHA), including a new street at the northern portion of the site with a new controlled intersection with East Marine View Drive (at no cost to the City).
 - c) Demolition, public works, industrial waste discharge, and other required permits for remediation work, structures, roadways, utilities, and redevelopment activities.
 - d) Any supplemental environmental review required for the above actions.
- 2) Terms of Loan Guarantee. The City of Everett will guarantee EHA's Line of Credit loan in an amount not exceeding approximately \$5,700,000, and in a form mutually acceptable to the parties and the City of Everett and EHA's lender. The City of Everett and EHA will enter into an agreement under which:
 - a) Prior to drawing on the Line of Credit, EHA shall review the project budget with the City of Everett and then adopt a project budget and a contingency funding plan for project costs in excess of the approved budget.
 - b) The City of Everett may require its approval prior to any draw by EHA on the Line of Credit.
 - c) If the project costs at any time exceed 12 % of the original approved budget (prior to change orders), the City reserves the right to suspend cover any of the Line of Credit yet to be drawn down until the budget issue is resolved.
 - d) Fifty percent of any funds remaining from the proceeds of the sale of these properties by EHA after the payment of the Line of Credit will be paid by EHA to the City of Everett in consideration of the unreimbursed project support and risk borne by the City of Everett.
 - e) Require Asarco to accept all cleanup costs.
- 3) Review Process. The City of Everett and EHA will establish a review process for monitoring project implementation which will include, at a minimum, EHA providing to the City of Everett:
 - a) The ability to review, prior to execution, all contracts and agreements to be entered into by EHA for this project, including but not limited to purchase and sales agreements, construction and remediation contracts, and financing documents.
 - b) A weekly status report by the EHA project construction manager.
 - c) An updated budget whenever there is a cumulative budget or change orders of \$20,000 or greater.

- d) An initial project schedule and a revised project schedule whenever there is a cumulative schedule change of 7 days or more.
 - e) Access to the Property (subject to health and safety requirements) and to the project records of EHA, Asarco, and their contractors.
- 4) Community Renewal Actions. Upon consideration and action on findings regarding blight and the designation of the Fenced Area and Adjacent Area of the Everett Smelter Site as a community renewal area by ordinance, resolution or such other form of action required under RCW 35.81 (Community Renewal Law), the City of Everett will:
- a) Elect to have such powers of the community renewal agency exercised by EHA and to delegate to EHA appropriate powers necessary to carry out the redevelopment effort.
 - b) Consider and act upon a community renewal plan and any updates prepared by and at the expense of EHA.
 - c) Consider and act upon a community renewal project plan or proposal prepared by and at the expense of EHA.
 - d) Not proceed with redevelopment activities without prior City of Everett approval of a community renewal plan or project, including a budget that ensures the City's financial commitment to EHA will not be exceeded.
- 5) Project Responsibilities. The City of Everett and EHA will cooperate to the greatest extent possible in the undertaking of this redevelopment effort, including:
- a) EHA shall, or obtain an enforceable commitment from Asarco to, place and hydroseed a minimum two-foot cap of clean topsoil on the Fenced Area not later than September 1, 2005, unless expressly agreed otherwise in writing by the City of Everett.
 - b) EHA shall submit or obtain an enforceable commitment from Asarco to submit a Interim Site Restoration Plan for City of Everett approval prior to rough grading of the Fenced Area and cap placement, and, unless otherwise agreed by the City of Everett, shall submit the Final Site Restoration Plan and other plans identified in the FCAP/FEIS and Final Design Report for City of Everett approval not later than the submittal or any subdivision application to the City of Everett on the Fenced Area.
 - c) EHA shall be responsible for all remedial actions required by the Prospective Purchaser Consent Decrees (PPCDs), construction of all streets and utilities in the project area, all redevelopment activities as approved by the City of Everett.
 - d) EHA will fully support protection of the City of Everett, in the PPCDs and financing documents, against any liability, including liability for any remedial costs on public or private property in the project area. EHA shall include the City of Everett as an "EHA Indemnified Party" in its Remediation Agreement with Asarco. Any agreement between EHA and the City of Everett is contingent on the City of Everett receiving such protection.
 - e) Unless expressly agreed otherwise in writing by the City, the City will not take title, hold a deed of trust, or have a security interest in the property.
 - f) EHA shall immediately begin the process of marketing the subject properties to third party developers with a goal of obtaining a third party developer no later than August 2004.
 - g) Any sale of these properties is subject to the approval of the City of Everett.

- h) The City of Everett may direct the timing of the sale of the remediated parcels by EHA.
- i) EHA shall indemnify and hold the City of Everett harmless from any liability associated with this project.

This document outlines generally terms the City of Everett and the Everett Housing Authority have discussed with respect to this project and the parties are in general agreement as to these deal points subject to the execution of a final agreement between the parties.

